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UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY  
TRENTON DIVISION

In Re:

Joseph Thomas Carrano  
*and* Ruth Elaine Carrano,

Debtors.

Bk. No. 16-22887-MBK

Chapter 13

**OPPOSITION AND RESPONSES TO  
DEBTORS' MOTION TO ENFORCE  
CHAPTER 13 PLAN, COMPEL  
ALLOCATION OF MORTGAGE  
PAYMENTS, PAYMENT OF  
PROPERTY TAXES, INSURANCE AND  
DAMAGES PER 11 U.S.C. §524(i)**

Hearing –

Date: January 2, 2018

Time: 10:00 a.m.

Place: U.S. Bankruptcy Court

402 E. State Street

Trenton, New Jersey 08608

Courtroom 8

Kondaur Capital Corp Corporation as servicing agent of Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not in its individual capacity but solely in its capacity as Owner Trustee of Matawin Ventures Trust Series 2017-2, secured creditor in the above-entitled Bankruptcy proceeding, its assignees and/or successors in interest (hereinafter “Kondaur”), holds the senior lien on the subject property generally described as **351 Enterprise Drive, Forked River, NJ 08731** (hereinafter “Subject Property”), and hereby submits the following opposition

and responses to the Debtors' Motion to Enforce Chapter 13 Plan, Compel Allocation of Mortgage Payments, Payment of Property Taxes, Insurance and Damages per 11 USC §524(i) proposed by Debtors:

Debtors request for relief includes requests that 1) Kondaur file a transfer of claim; 2) Ocean Front Bank turn over funds to Kondaur; 3) that the property taxes be paid and that the late charge and penalty part of the taxes owed not be charged back to the Debtors; and 4) that Kondaur pay Debtors' attorney fees of \$750.00.

First, Kondaur is in the process of filing a transfer of claim, which should be filed before the date of this hearing.

Second, Ocean Front Bank has turned over the two payments that were transmitted by the Chapter 13 Trustee after the transfer of the loan occurred. Kondaur acknowledges the receipt of the \$526.42 that was sent by the Chapter 13 Trustee on September 1, 2017 and the \$1,122.10 that was sent by the Chapter 13 Trustee on November 2, 2017. All payments transmitted by the Chapter 13 Trustee prior to the transfer were correctly transmitted to Ocean Front Bank.

Third, Kondaur disputes the allegation in the motion that the transfer of servicing occurred in August of 2016. The Transfer took place effective August 2017 as evidenced by the letter attached to the Debtors' Motion.

Kondaur agrees that the property taxes need to be paid. Kondaur will investigate the lack of notice by Lacey Township to the Secured Creditor and review the alleged non-payment of the taxes. To the extent property taxes were not paid, Kondaur agrees that the fees and penalties should not be passed on to the Debtors. Per discussions with the Lacey Township, the taxes in question are the November 1, 2017 property taxes that were due by November 10, 2017. The letter provided as Exhibit E to the Debtors' Motion indicates it was sent on November 14, 2017. Said letter is a violation of the automatic stay pursuant to 11 U.S.C. §362(d)(4) as it is an action to collect a debt and is thus void. Kondaur opposes the imposition of attorney fees for Debtors' pleadings as they could have been handled via a telephone call to the taxing authority.

**CONCLUSION**

It is respectfully requested that the Debtors' Motion to Enforce Chapter 13 Plan, Compel Allocation of Mortgage Payments, Payment of Property Taxes, Insurance and Damages per 11 USC §524(i) be denied.

WHEREFORE, secured creditor prays as follows:

- (1) That the Debtors' Motion be denied.
- (2) For such other relief as this Court deems proper.

Dated: 12/26/2017

By: /s/ Warren S. Jones, Jr.  
WARREN S. JONES, JR., ESQUIRE  
Retained Counsel for Secured Creditor